

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:11-CT-3071-FL

TERRANCE LAMOUNT JAMES, )

Plaintiff, )

v. )

ORDER

G.J. BRANKER; NORTH CAROLINA )

DEPARTMENT OF CORRECTION; )

NORTH CAROLINA COURT OF )

APPEALS; ROY COOPER; BEVERLY )

PERDUE; FORREST D. BRIDGES, )

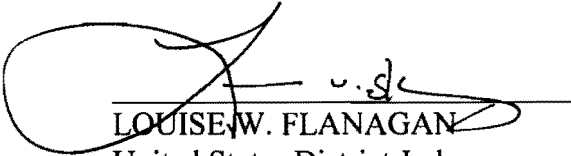
Defendant. )

Plaintiff seeks leave to proceed with this action *in forma pauperis* pursuant to 28 U.S.C. § 1915. The matter comes before the court for review pursuant to 28 U.S.C. § 1915. The Prisoner Litigation Reform Act (“PLRA”) allows the court to dismiss a prisoner’s action “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). This subsection is known as the “three strikes” provision of the PLRA. See Altizer v. Deeds, 191 F.3d 540, 544-45 (4th Cir. 1999).

At least three previous cases filed by plaintiff have been dismissed as frivolous or for failure to state a claim upon which relief may be granted. These cases include: James v. Hubers, 5:04-CT-599-BO (E.D.N.C., dismissed Oct. 25, 2004); James v. Ray, 1:05-CV-225-02-MU (W.D.N.C.,

dismissed, June 13, 2005); James v. Johnson, 1:05-CV-15-02-MU (W.D.N.C., dismissed, Jan. 31, 2005). Additionally, this district previously has dismissed an action filed by plaintiff pursuant to the three strikes provision. See James v. Lightsey, No. 5:05-CT-490-D (E.D.N.C., dismissed, Aug. 19, 2006). Further, after a full review of the complaint and proposed amended complaint, the court finds that plaintiff is not under imminent danger of serious physical injury. Accordingly, he may not proceed as a pauper in this action. See Harley v. United States, 349 F. Supp. 2d 980, 981 (M.D.N.C. 2004). Thus, plaintiff's action is barred pursuant to 28 U.S.C. § 1915(g) and is hereby DISMISSED without prejudice. Additionally, plaintiff's motion to amend (DE # 6), motion for mandatory injunction (DE # 8), and motions for default judgment (DE #s 11, 12, and 14)<sup>1</sup> are DENIED as moot. The court vacates its May 11, 2011, order directing monthly payments be made from plaintiff's prison account.

SO ORDERED, this the 17<sup>th</sup> day of November, 2011.

  
LOUISE W. FLANAGAN  
United States District Judge

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<sup>1</sup> The court notes that defendants have not yet been served and are not in default.